88-1460

No.

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IN THE

Supreme Court of the United States

October Term, 1988

DENNIS GROHS,

Petitioner,

vs.

GOLD BOND BUILDING PRODUCTS, a division of NATIONAL GYPSUM COMPANY,

Respondent.

APPENDAGE OF

APPENDIX TO PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

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Sarvis - direct

ROBERT H. SARVIS,

DIRECT EXAMINATION

[10] BY MS. BALIUNAS:

Q. Mr. Sarvis, could you please state your full name for the record.

BY THE WITNESS;

A. Robert Hammond Sarvis

Q. What is your address?

A. 11 South Water Street, Nantucket, Massachusetts.

Q. And how old are you?

A. Forty-two.

Q. Are you married?

A. Yes.

Q. Are you currently employed?

A. Yes.

Q. What is your position?

A. I'm president and treasurer.

Q. Of what company??

A. Brant Point Corporation.

[11]Q. What type of business is that?

A. It is a construction and development corporation.

Q. What is it involved with, what kind of construction?

A. It builds residential and commercial buildings.

Q. Do you use Gold Bond products --

A. Yes.

Q. -- in your company?

THE COURT; Is this construction development on Nantucket?

THE WITNESS; Yes.

BY MS. BALIUNAS;

Q. Can you please tell me what the highest level of education you have achieved is and when you received it?

A. I have a Master's in business administration from Case Western

Reserve, and I received that, I believe, in 1971 or '72.

Q. Who was your previous employer before Brant Point then?

A. National Gypsum Corporation.

Q. Can you give me the dates of your employment with Gypsum?

A. I believe it was August or September of 1978 through November of 1983.

Q. What was your first job with the company?

A. Managing director.

Q. What did you do in that job?

A. Initially, I was in charge of the Manchester vinyl siding operation.

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[12]Q. Did your job duties change?

A. Yes.

Q. How did they change?

A. I received additional plant responsibilities over the period of my employment.

Q. Can you tell me which plants you received?

A. I received the Halifax, Nova Scotia operation in Canada. I had the Portsmouth plant in New Hampshire, the Rensselaer plant in New York, the Niles plant in Ohio, the Mobile plant in Alabama, the Matteson plant in Chicago, and the Waukegan plant. I think that's eight.

Q. Can you tell me when you took over the Waukegan plant?

A. It was, I believe, March of '83

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Q. What was the status of the Waukegan plant at the time?

A. It was shut down.

Q. What were your responsibilities with regard to the Waukegan plant?

A. My responsibilities were to start the plant up, attempt to decertify the union, and to manage the operation once it was started up.

Q. What did you do to get the plant started up?

A. Initially, we had to select a plant manager for that plant, and there were a number of techinical things that we had to do. We had to employ, hire people for the plant, correct, and get the equipment in order to start the plant up, a number of things like

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[14]Q. Despite some problems that he had with employees in the past?

MR. LIEBERMAN; Objection; leading.

BY MS. BALIUNAS;

Q. Did you have a discussion with respect to your reservations about Mr. Ward with Mr. Spitz?

A. Yes, I did.

Q. What did you say?

A. I told him that my one reservation with Bob Spitz, in regard to the decertification campaign that we were going to carry on, was that he had had employee-relations problems, and he had -- his record showed that he had a very strong temper, and that could cause us a problem. Spitz and I discussed that, and we decided that we would have to

control that, and, hopefully, Ward through that, that the other assets were more important to us at the time.

Q. Now, you mentioned that you wanted to decertify the union. What action did you take in order to get the union dedcertfied?

A. Well, it was -- there were several steps. The first step was to select employees that we had screened, that we knew had antiunion or were at least leaning towards a nonunion type of operation. That was step one.

We brought up some personnel people, I think, Charlie Goyd and maybe on of his assistants, to screen these employees to determine whether they would fit our criteria for employees. That was the first step.

[15]And then there was an ongoing campaign to convince them that they didn't need a union at the Waukegan plant, that they would be treated fairly, and management would be concerned about their problems. And so it was a promotional kind of thing.

Q. What about with respect to Mike Ward, did you give him any input as to decertification?

A. Well, yes, and we sent him to a school for, I think he was there a week, that specialized in training managers and supervisors how to deal with unions and how to go about decertifying a union, what kind of employment policies you should carry out.

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Q. When did you send him to the school?

A. As I remember it, it was late March or early April 1983.

Q. And where was Mr. Ward stationed at the time?

A. He moved to Waukegan sometime in early April. Before that he was in Phoenix.

Q. Where was the school located?

A. I believe it was in Dallas.

Q. How did you find out about this school, Mr. Sarvis?

A. I had attended the school approximately a year, maybe a year and a half before that. In terms of generally working with employees and labor unions, the company had worked with these consultants on many occasions prior to, and so the company recommeded that.

Q. What kind of supervisors were the

[16]

respect to the start-up of the plant?
A. We were looking for supervisors who had actual board line experience, who knew how to operate the facility. We were also looking for, I would say, young supervisors who could grow with that operation if we were able to put it on line and keep it operational.

MR. LIEBERMAN: Objection; no foundation as to what they were looking for.

THE COURT; At this point, I understand as what was going through this witness's mind If counsel wants to take it further than that, that's

BY MS. BALIUNAS:

Q. What were Mike Ward's responsibilities as the plant manager of the Waukegan plant?

A. He was responsible for hiring and training the new employees, hiring supervisors, overseeing the start-up, recommending any improvements to equipment that might be necessary, and implementing that start-up, and then managing the plant and trying to achieve our objectives for plant efficiency.

Q. Did he have a specific time frame to do this in?

A. We were on a tight timetable. I think that we promulgated the fact that we wanted to have this plant up and operational in 90 days. I think

as a realistic matter, we as managers knew it would take longer than that, but there was an importance from our standpoint to both convince the employees that it was a short

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[17term, so that they would vote for decertification, and, second, we did have to get the plant up. So there was a time frame. I would say, that we wanted the operation to be up in operation within six to seven months after we had started with Mike Ward.

Q. What was so important about decertification? Why was it so important?

A. Well, I think there were several aspects of that. One was just the fact that it was important for the company to decertify a union in one of its plants, and this plant gave us the most opportunity because there were really no employees there. There was a union, but no employees.

Second, the company had related problems in the plant to the previous

union situation and felt that the union had been overly restrictive in operating the plant.

Q. Prior to the discharge of Dennis Grohs, did you ever discuss his termination with anyone from management?

A. Could you repeat that?

Q. Prior to Dennis Grohs' discharge, did you ever discuss his termination with anyone from management at Gold Bond?

A. Yes.

Q. When was the first discussion that you can recall?

A. The first discussion I recall was with Bob Spitz and, I believe, Mike Ward in what would have been late March early April, when Spitz told myself and Ward that he wanted Grohs terminated.

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[18]Q. Was that the central issue of the discussion, or were there other matters discussed at the same time?

A. Well,at that time Bob Spitz and I had made a tour through the plant, so we discussed a number of things relevant to the plant both of a technical nature and of employees. He indicated to me that not only did he want Grohs terminated but he also wanted Qualls terminated at that time. He complained to Qualls and myself and, I believe, Mike Ward, but I can't remember for certain, about the condition of the plant, that the silo area was very messy, and that he wasn't happy about that.

Q. Was Dennis Grohs blamed at all for the condition of the plant by Mr. Spitz?

A. I don't recall that.

Q. Was there any other conversation other than this one, any subsequent conversation regarding the termination of Dennis Grohs?

A. Yes, there was a conversation in late April, I think it was the 28th of April, '83.

Q. Who was present for that conversation?

A. Initially, Bob Spitz and myself, and then myself and Bob Spitz and Jim Bavis.

Q. Where was the conversation held?

A. The conversation occurred in Bob Spitz's office in Charlotte, North Carolina.

Q. Can you tell me how is it that you -- why did you attend that meeting?

[19]A. I was requested to attend that meeting by Bob Spitz.

Q. Were you in Charlotte at the time?

A. I was asked by Bob Spitz to fly from where I was vacationing in Florida to attend the directors' meeting, and to meet with him concerning Waukegan and the discharge of Dennis Grohs.

Q. Okay. To the best of your recollection, could you please tell the Court what was said by each person at that meeting?

A. Initially, Bob Spitz and I met to talk concerning Dennis Grohs. He told me that he wanted Dennis Grohs fired, that it was taking too long to get rid of him, that he was too old and too fat for the job, and he

wanted him terminated. And during that time, he showed me a list of employees that he had that he wanted to terminate. I think it was after that that he got Jim Bavis to come down and meet with us and give us a scenario under which conditions we could effectively fire Grohs.

Q. Would you please tell the Court who Jim Bavis is?

A. Jim Bavis was then in charge of, I think it was human resources, which was the employee aspect of the division in Charlotte.

Q. Was he an attorney?

A. He was an attorney.

Q. I'm sorry; go ahead.

A. Bavis gave us two scenarios. One was to discharge Grohs and replace him with an older man, even if it was temporary. Spitz

[20rejected that approach. Then Bavis suggested that we just eliminate the job. That approach was accepted.

We called Mike Ward and directed him to discharge Grohs the next day. This was done. Bob Spitz had a speaker phone in his office, and we did it. All three were on the phone. Bavis recommended that Lynch attend that discharge with Grohs. I don't know whether Lynch was there at the plant, but I know that he was on his way if he wasn't there at the plant at the time.

Q. Was Dennis Grohs' job performance discussed at all by Mr. Spitz at the time?

A. No.

Q. Did Mr. Spitz indicate why he wanted this advice from Mr. Bavis?

A. He was concerned about the legalities of firing and possible

Sarvis - cross

Q. At the time you hired Ward, you told him that one of his objectives was to establish better employee/employer relationships to make the plant the right kind of place for a decertification election?

A. I don't know exactly the time of hiring but, certainly, shortly thereafter.

Q. Your sending Ward to the decertification clinic or seminar in Dallas was part of your plan to train him, give the tools to do this?

A. Yes.

Q. As I understand it, you attended this seminar as well at one point?

A. I attended a different, similar seminar but similar in nature.

Q. Okay. You understood that one of the subjects at the seminar would deal with establishing a better relationship between management and the employees at a planat in order to foster decertification?

A. Yes.

Q. The idea being that management convinces the employees that

[45] they are better off without a union?

A. Yes.

Q. The theme that was sold in those seminars and in these campaigns is trust. Trust us, you can trust us rather than the union?

A. Yes.

Q. So the focus of these decertification efforts is one of unity or harmony between the company and the employeees?

A. Yes.

Q. If the employees don't trust management or the supervisors they are not going to vote the union out at least that's the general theory behind --

A. That's right.

Q. -- one's approach to these things?

Now, am I correct that you submitted two affidavits earlier in this case?

A. That's correct.

Q. You signed two affidavits.

Just for identification purposes, at this point, I'll show you what is marked as Defendant's Exhibits 13 and 14.

Now, directing your attention first to Defendant's Exhibit 13, am I correct that this was prepared by your attorneys and Ms. Baliunas, the plaintiff's lawyer?

A. I Think just my attorneys.

Q. Miss Baliunas telephoned you and interviewed you over the

[48] A. No, but my attorney dictated the affidavit.

Q. This was true, was it not? You meant for it to be a true affidavit, I assume?

A. Yes.

Q. Is it also true that you had no involvement, you had virtually, no involvement with Grohs' termination?

A. That's correct.

Q. So the second affidavit related to whether you had any involvement in the termination, isn't that true?

A. I don't see how that modifies virtually no involvement, the second affidavit.

Q. The second affidavit, as I read it, says, "Although I had virtually no involvement in the Grohs termination, I was with Spitz at the

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Waukegan Plant in or around April '83, when we met with Michael Ward"

So the purpose of that second affidavit was to talk about your involvement in the Grohs termination, was it not?

A. Yes, but it wasn't the purpose to modify the fact that I had virtually no involvement?

Q. Right. The first affidavit said you had virtually no involvement in the Grohs termination, "as I had just received responsibility for the Waukegan plant and was not familiar with the operations there," right?

A. That's correct?

Q. In fact, there is no indication that you were involved in the

Grohs termination in the first affidavit, is there?

A. I said, I was virtually not involved.

Q. In the first affidavit, there is no reference to any involvement that you had in the Grohs termination?

A. I guess I would ask you for a definition of "involvement." What do you mean by "involvement"?

Q. Well, you're the one who said it. Paragraph 5: "I had virtually no involvement in the Grohs termination as I just received" --

A. Well, then maybe I should define what "involvement" means to me in termination. It certainly means more than standing there and listening to somebody tell you to fire somebody. It means making an

evaluation of the individual, looking at his record, setting objectives for an individual, seeing that he couldn't meet those objectives, and terminate him. That's involvement.

Q. Okay. Well, just to clarify this, so the second affidavit was for purposes of answering the question put to you, "Mr. Sarvis, did you have any involvement between Spitz, Ward and you in the Grohs discharge?"

[77]Q. What was Jon Roth doing? You claim that you replaced -- wasn't Dennis at one time the board plant superintendent? --

A. Yes, he was.

Q. Well, you say you replaced with Jon Roth. If Dennis was the board superintendent, I don't understand why you say you replaced him with Jon Roth.

A. Dennis' job title was board plant superintendent. Prior to the start-up, he was essentially a custodian of the shutdown operation, almost a security guard.

The new operating plant, once the plant was started up, was what the company called a lean-and-mean

operation that was very minimally staffed and did not have a board plant superintendent.

Q. But they had someone performing those duties?

A. Of the board plant superintendent?

Q. Yes. Because you have to have -- as a matter of fact, isn't it true that Waukegan is the only plant that did not have a board plant superintendent of all the plants?

A. No.

Q. Even the start-up in Medicine Lodge had a board plant superintendent, didn't it?

A. I would imagine they did. Medicine Lodge is one of the biggest plants that the company had. The Waukegan plant, at the start-up there, was the smallest operation that the company had.

Q. So are you saying that Dennis Grohs then was not the board plant superintendent when he was replaced by Jon Roth?

A. His job title was board plant superintendent. He was not performing the duties of board plant superintendent, no.

Q. Going back to your statement on December 7th. You say: board plant superintendent that was held by Mr. Grohs. Immediately after that, Mr. Grohs' termination, the job duties

were performed by plant manager Michael Ward, who is 48 years old."

So, was Dennis Grohs, or was he not, board plant superintendent? I still can't figure that out from your testimony.

BY THE WITNESS:

A. His job title on official payroll records was board superintendent. He was not performing the duties of the board plant superintendent, however.

BY MS. BALIUNAS:

Q. Turning to your second position statement, after stating in your first position statement that "During 1981 labor

[80]committee as often as Mr. Grohs' name came up in those negotiations.

Q. Those took place in December of 1981?

A. November '81.

Q. Why wasn't Dennis terminated in February?

A. That wasn't my decision to make.

Q. Did you recommend that he be terminated?

A. No, I didn't.

Q. Now, you remember back in 1985 when I noticed up a rule 30 (b) (6) deposition of the company to answer my questions about Dennis' termination, and you were the one selected to answer those question, is that right, Tom?

A. That's the January 10 deposition?

Q. Yes.

A. Right.

Q. Now, according to your testimony, it is Gold Bond's claim that the only reason that Dennis Grohs was discharged was his inability to get along with people, is that correct?

A. That's my understanding, yes.

Q. How long did Dennis work for Gold Bond, do you know?

A. I don't know.

Q. Okay.

A. I know it was a long time.

Q. During the time that Dennis worked for Gold Bond, he was a company man, that is, he was always a loyal employee to Gold

[81]Bond, wasn't he?

A. His loyalty was never questioned.

Q. You approved of the decision to discharge Dennis, didn't you?

A. Yes.

Q. As a matter of fact, you actually participated in that discharge.

A. I don't know what you mean by "participated in the discharge"?

Q. Were you present for the discharge?

A. Yes.

Q. Did you say anything to Dennis during the discharge?

A. Yes.

Q. Did you ask him to resign rather than be discharged?

A. I didn't ask him to do that, no. I told him that if he wanted to resign, that the company would offer assistance in the way of

out-placement services, extended severance pay, extended health benefits, things like that.

Q. Who is Robert Spitz?

A. He's Gold Bond's vice president of manufacturing operations.

Q. In early 1983, did Robert Spitz decide to start up the Waukegan plant?

A. It was a decision of Gold Bond Building Products that the executive committee made of which Mr. Spitz is a part.

Q. Is it the company's claim that Mr. Spitz concluded that poor labor relations were responsible for the deterioration of the

A. I'm saying that it was made by a committee of which Spitz was a member.

Q. Was it true that supervisor had to be selected with an eye toward their personnel skills?

A. Yes.

Q. Mike Ward was selected to carry out this policy, is that correct?

A. To hire supervisors, correct.

Q. To carry out the policy, the sharing-and caring-policy, isn't that right?

A. He was one of several people. Mr. Sarvis was responsible for it. I was somewhat responsible for it.

Q. Bob Spitz chose Mike Ward to run the re-opened Waukegan plant, basically, didn't he?

A. That's my understanding.

Q. Mike Ward should have been the first one to carry out the company's family team concept, is that right?

A. I don't know if anyone was supposed to come before somebody else, but he was certainly one of the people, sure.

Q. That would be especially true during these crucial 90 days that the plant had to prove itself to stay open, isn't that right?

A. Yeah. Otherwise there would be no operation at all.

Q. This family team concept means that both management and hourly employees were a team sharing in the work, caring about

[88]each other, and caring about the product that the team produced, is that right?

A. That's certainly an acceptable definition.

Q. With respect to the supervisors, they wanted them to understand the people and to deal with them in a compassionate manner, is that right?

A. Correct.

Q. They wanted communications to be better between the employee and the supervisor, is that right?

A. Correct.

Q. But Mike Ward had a communications problem himself at the time that he was selected, didn't he?

A. I don't know what you mean by "communications problems." I don't know anyone who can communicate with

Q. Who, Les Scoggin?

A. Les Scoggin.

Q. He was mainly maintenance, isn't that right?

A. I believe so.

Q. Who was retained other than Les Scoggin?

A. Dennis Grohs, Jerry Orrick, Dave Burks, and Murray Qualls.

Q. Do you know how old, at that time, Jerry Orrick was?

A. No.

Q. Any of them?

A. I know that Dennis was over 40. Murray Qualls was over 40. And Orrick and Burks were under 40.

Q. But you knew their ages two years later when the plant started up, is that correct; that Dave Burks was

about 33, Dennis was 51, Jerry was 31, and Murray was 43?

A. These ages were correct on July 1983, to the best of my knowledge, yes?

Q. Actually, Murray ws 41, isn't that true, not 43?

A. I believe that it was true. If it wasn't, it wasn't but that was my understanding at the time.

Q. Did seniority play a part with respect to the second layoff?

A. Which?

Q. The shutdown. The people who were retained, did seniority play a part?

A. I believe those were the same four individuals who worked on the one-shift operation between October and February. I'm not, I

[97]operation to a one-shift operation.

In fact, it was only going to produce four days a week.

Because the supervisory staff was being curtailed to the bone, the people that were -- that would be kept on had to have versatility in more than one area. Dennis apparently had skills in more than one department, more than one area of the plant.

In adddition to that, the evaluations, previous evaluations on the performance appraisals, the marginal, adequate, competent, outstanding, distinguished were looked at for those people. And based on those two factors, a decision was made to keep Dennis.

Q. So he was pretty knowledgeable about the operations of the plant;

that's why he was kept, is that right?

A. He knew more than one area as I recall, yeah.

Q Tom Brooks went other to Pheonix, is that right?

A. Correct.

Q. Bob Coventry, who was Dennis' direct supervisor, went to Rotan, Texas?

A. Correct

Q. During those 1981 labor negotiations, they were held in, did you say November, December, something like that?

A. November.

Q. November. Did you back Dennis Grohs when these comments were made by the union committee? Did you back him up?

A. No. In fact, in caucuses with the company, I had told Tom

110]Q. Turn to page 120, line 21:

"Question: Don't you think that if the company had told him, 'Look, Dennis, we have got this new way that we are going to be handling these things from now on, don't you think that Dennis, being a company man, would have attempted to go along with company's program?

"Answer: Would he have attempted to? Maybe. Would he have been successful? I don't think so."

A. That was my testimony?

Q. Yes.

A. He was, prior -- between the time Mike Ward got to the plant and the time Mr. Grohs was terminated, I know that Jim Bavis visited the plant and talked to all the supervisors, including Mr. Grohs, about the new

plan for the Waukegan plant and the need for more understanding relationships between supervisors and the employees. And Dennis, certainly, at least at that time, I know was told about the new plan.

Q. But when I asked you back two years ago, you gave me that answer, is that correct?

A. Yeah, and that answer is still correct. I'm not changing that answer at all.

Q. Did Mike Ward say anything to Dennis about improving his labor relations?

A. You'd have to ask Mike; I don't know.

Q. Now, as of July 1982, Murray Quals was an outstanding

[115]weren't located. I know of cases when performance appraisals are never done, particularly when employees are moving from facility to facility. That could be well be the case here.

Q. So your saying that maybe they weren't done?

A. That could be the case.

Again, it's entirely different with expense reports.

Q. I'd like to show you what has been previously marked as Plaintiff's Exhibit No. 49 and admitted into evidence pursuant to stipulation of the parties. Can you identify this document, please?

A. It's titled "Defendant's Response to Plaintiff's Second Interrogatories" in this action.

Q. Did you draft this document?

A. No.

Q. Did you sign this document?

A. Yes.

Q. Did you put the information together for this document?

A. I believe most of it was put together by Rick Lieberman. Parts of it, I'm sure I got him some of it. The specifics as to who got what from who, I really can't tell you.

Q. But you certified it as being true, isn't that true?

A. "I certify that upon information and belief that these responses are true and correct."

Q. Now, looking at this document, you state -- this document list people who have substantial knowledge of the case, is that

[116]A. It says, "This is a list of persons that defendant believes possess substantial knowledge of the relevant facts."

Q. I asked for the name, address, phone number, place of employment. You stated on the second page that in the case of corporate agents, "Defendant objects to providing addresses, telephone numbers, and places of employment. in those instances we have instituted National Gypsum instead of address, telephone number, and place of employment."

Is that correct?

A. Correct.

Q. Now, if you take a look at number 10, the name Robert Sarvis appears and National Gypsum Company underneath his name.

A. Correct.

Q. His address was not provided to me, was it?

A. No.

Q. Instead, you said he was a corportate agent, is that correct?

A. The document says that addresses are not provided for corporate agents.

Q. Correct.

A. It was not my decision not to give his address.

Q. Was he employed by the company at that time?

A. On April 3rd, he was not.

Q. As a matter of fact, he had been gone for a year and a half, Isn't that true?

MR. LIEBERMAN: We would move to admitt Defendant's 15, Your Honor.

THE COURT: It will be received.

(Defendant's Exhibit No. 15 received in evidence.)

By Mr. Lieberman:

Q. Directing your attention to on or around April 14, 1983, did you have a conversation with Robert Sarvis?

A. I did.

Q. Was that in person or over the telephone?

A. It was over the telephone?

Q. Did you call him or did he call you?

A. He called me.

Q. What was said?

A. Mr. Sarvis was calling me, he had just visited the Waukegan plant, and he had some items he wanted my advice about. He was

[129] discussing with me some organizational ideas he had about starting up that plant, particularly, about the kinds of supervisors we would have, and how they would report to the plant manager as I recall.

We talked about not using old job titles that we've used in other plants for the hourly employees but to have a singular technician classification, which would give us additional flexibility in moving the work force about.

He also spoke in that telephone conversation with me about Dennis Grohs. Relative to Dennis Grohs, he expressed to me that based on the research he had done up to that point and time, he had some legitimate concerns as to whether Dennis was going to be the kind of supervisor

who would allow us to operate the plant in the manner we intended to operate it. He specifically asked me if I would take a look at whatever was available to me, and give consideration to that, and get back to him and advise him as to how I felt about Dennis Grohs.

Q. I'm showing you what has been marked as Defendant's Exhibit 16. Can you identify 16? What is it?

A. Those are the contemporaneous notes that I made while talking to Mr. Sarvis on April 14th.

Q. What was your practice in terms of making notes?

A. I'm a big notetaker. Anytime I'm on the telephone talking important business with anybody, I take notes and try to date the notes and also indicate with whom I was speaking.

of it, is that correct?

[134] A. I approved the severance arrangements, yes, ma'am.

Q. Did you speak with Tom Lynch before he directed his charge to the EEOC -- or his response to the charge of the EEOC?

A. I'm sure I did not.

Q. Can you tell me when you were first contacted by Gold Bond with respect to being here today?

A. Yes. I was first contacted on Monday afternoon.

Q. Who contacted you?

A. I had a telephone message. I was in a series of meetings that day. I had a telephone message that Tom Lynch had called me. I, later that evening, returned his call.

Q. What did he say to you to the best of your recollection?

A. He asked me if I would be

available to come up and testify in this case.

Q. What did you say?

A. I took a look at my calendar and said I'd have to squeeze some things out, but, yes, I would try to do that.

Q. Did he say anything further?

A. Just things of a personal nature, how's the family and things. Could you be more specific?

Q. Didn't he tell you why he wanted you up here in the first place?

A. He suggested that there was some potential testimony that would come in to this case that I might need to come and refute.

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[135] Q. To the best of your recollection, could you tell me exactly what he said or as close as you can come to what he said?

A. There was discussion about the testimony that might come in from Mr. Sarvis about the April 28 meeting. I was asked to search my recollection of such a meeting, which I did.

Q. He had called you on -- did you say Monday night?

A. That's right.

Q. Did he --

A. He called me Monday afternoon. I returned it Monday night.

Q. So you didn't talk to him until Monday night, though?

A. Correct.

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[144] Ward - direct

A. Yes. We were in the midst of decertification. It was important I go there.

Q. When you were assigned the task of resurrecting the Waukegan plant, were you given a 90-day trial period to do it in ?

A. Yes.

Q. Was your mission to keep the union out of the plant during those 90 days?

A. Yes, it was.

Q. You got there on about the 12th of April?

A. The 13th.

Q. Was Mr. Sarvis there in Waukegan on that day?

A. Yes, he was.

Q. Can you tell me who Jon Roth is?

A. Jon Roth presently is a board plant line foreman, shift foreman.

Q. Was he the president of the local union?

A. He was the president of the local union, yes.

Q. For a while, he was acting board plant superintendent in Waukegan, too, recently, wasn't he?

A. Recently?

[157] Q. Yes.

Q. You wanted your supervisors to be good in labor relations, that was the most important thing.

A. I wanted them to be tuned into labor relations.

Q. Did you claim, or do you claim that your primary objective at the Waukegan plant was to foster good labor relations among the employees?

A. Do my very best.

Q. It was your primary objective, is that correct?

A. One of my primaries.

Q. Communications was really important, wasn't it?

A. Yes.

Q. It was important that the supervisors cared about the employees?

A. Yes.

Q. It was important that the supervisors be caring and sharing, is that right?

A. That's correct. That was my theme, care and share.

Q. Right. But that's not the way that you conducted yourself, was it?

A. I conducted myself exactly like that, caring and sharing. I moved my office complex out there to be amongst them.

Q. Were you curt with the employees?

A. Curt? I was always, and still am, a very firm boss.

Q. You're really direct, aren't you?

A. Very direct.

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A. Mr. Brooks told me that. Mary Ann Siegal told me that, too.

Q. That was before you discharged Dennis?

A. I believe it was.

Q. So now you are saying that Mary Ann Siegal also told you about Becky Parkman's crotch being grabbed? She told you that one, too?

A. It was at -- we went out for dinner. It was Mary Ann, Becky Parkman, and they had been -- Charlie Goyd -- there were other people present, and it was talking in gereralities about a lot of things, and that subject came up.

Q. Okay.

A. Because I had asked Becky myself if that really had happened, because Tom Brooks had informed me and shown me some notes out of a logbook.

Q. Lord knows, Mary Ann certainly would remember that one, wouldn't she?

A. I can't answer that.

Q. Tell me about Dennis tearing the tags off the unsellable wallboard. Was that a reason that you discharged him?

A. It certainly was another piece of consideration on my part to take. Donna Bittner had shared with me that piece of information. She had been working as the quality technician at the time, had tagged a considerable amount of board, and evening's run of board to be held, that it was an inferior board that

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should not be sold. She informed me Dennis came out, removed all the tags off the units of board, and directed them to be shipped out.

Q. Right.

A. She had gone to her supervisor, Murray Qualls, I believe it was, and complained to her supervisor about it. She shared that situation with me.

Q. Murray said it was just fine, didn't he?

A. I don't know what Murray had said.

Q. Murray was the supervisor of the quality control department, is that right?

A. That's correct.

Q. It was the quality control department that made sure that the board that went out met the company's specifications, is that right?

A. To the best of their knowledge, they always tried to do that.

Q. Right.

A. They weren't always successsful.

Q. Donna Bittner worked under Murray Qualls?

A. That's correct.

Q. But you don't know what Murray Qualls said. She never bothered to tell you what Murray Qualls had said about it?

A. No. I don't know what Murray Qualls did about it, said about it.

Q. Well, Murray Qualls was right there for you to ask about

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I think you might remember if from your deposition.

I would like you to turn to the second page. I would like to start -- I would like to read from the middle of the second page to you and then ask you some questions.

"Mike carefully reviewed the performance appraisals and anecdotal information regarding all of his supervisors as he prepared for the start-up. He was especially concerned that Mr. Grohs' 1981 and 1982 performance appraisals indicated deficiencies in labor relations and personnel matters, areas that would be critical to the success of the new operation. He then investigated Mr. Grohs' work recored and learned of

the following: One, during the 1981 labor negotiations with the United Cement Line Gypsum and Allied Workers International, Local 409, bargaining committee consistently complained about Mr. Grohs' inability to deal with people. "

Who told you about that?

A. The negotiations?

Q. Where did you get that information from?

A. Tom Brooks and Tom Lynch.

Q. I would like to turn your attention to page 129 of your deposition, line 1:

"Question: And what about the bargaining committee complainng about Mr. Grohs' inability to deal with people. Were you aware of that?

"Answer: Yes. Jon Roth had shared that he had

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fruitlessly attempted several times to approach management both on a day-to-day basis, and brought it at the union proposal at negotiations as a troublesome item for the employees."

A. That's also correct, too.

Q. So in other words, you are saying that you not only discussed it with Mr. Roth but now --

A. Again, I stand --

Q. -- you are adding Mr. Lynch?

A. Again, I stand corrected. Tom Brooks, Tom Lynch and Jon Roth shared that knowledge with me.

Q. With respect to paragraph 2:

"On several occasions Mr. Grohs sought to undermine his peers by spreading false rumors regarding

stealing by another supervisor as well as heterosexual and homosexual relationships of supervisory employees."

Did you ever follow up on substantiating the rumor about stealing?

A. The only thing that I had got involved with there was what Mr. Brooks shared with me in his logbook about the possibility of some supervisor Dennis said was taking money under the table from vendors. That's the only stealing that I can refer to.

Q. Do you remember the name of the supervisor?

A. Cutwell, Cudworth, or something like that.

Q. So you never followed -- you never substantiated it, is that correct? You never asked Dennis about it, did you?

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Q. So you confirmed that this was true through Mary Ann Siegal, Becky Parkman, and Tom Brooks, is that right?

A. In sequence, Mr. Brooks told me about it first in the Phoenix plant before I left. In conversations when I arrived at Waukegan with Mary Ann and Becky Parkman, they were verified through those two individuals.

Q. Is Mr. Brooks still employed by National Gypsum?

A. Yes, he is.

Q. He's still out in Phoenix?

A. Yes, he is.

Q. As the plant manager?

A. Yes.

Q. He could confirm this, couldn't he?

A. yes.

Q. If he was going to testify?

A. Yes.

Q. But he is not going to testify?

A. I have no idea.

Q. With respect to number 4:

"Mr. Grohs indicated to the previous plant manager that he would step on anyone who tried to get in his career path, a statement hardly indicative of a good relationship with peers."

That played no part whatsoever in your decision to discharge Dennis Grohs, did it?

A. No. It only highlighted -- just, again, Mr. Brooks shared

Q. You just wanted him out?

A. That's correct.

Q. You didn't put him on probation?

A. No.

Q. You didn't transfer him to another facility?

A. No.

Q. You didn't give him a chance?

A. I discharged him.

Q. You didn't --

A. I didn't do any of the things you said.

Q. You didn't give him a chance?

A. A chance for what?

Q. A chance to prove hijmself.

A. He had proven himself, proven himself that I should discharge him.

Q. So did you give him a chance?

Q. I would like to direct your attention to page 130 of your deposition, line number 20:

"Question,: Did you get the impression that he had done a good job as board plant superintendent?

"Answer: On paper, it might appear that way. I don't know. I'm a cautious person by nature.

"Uh-huh."

"Answer: So what you kind of tell me, I go and investigate."

So at least on paper, it looked like Dennis had done a good job, isn't that true, as a board plant superintendent?

A. On paper, I guess it could be interpreted I guess that way.

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Q. All these allegations of people problems took place outside the work place, didn't they?

A. No.

Q. Not on company time?

A. No, not all of them took place outside. Some of them took place on company property

Q. Oh, you mean the lewd fondling of his genitals?

A. Yes.

Q. When did you leave, September?

A. Yes, I left September.

Q. I'm sorry. Well, I would would you, please, read what it says under comments.

Q. And Mr. Chris Fraley is still employed by Gold Bond, is that right?

A. That's correct.

Q. Now, in about March of 1984, you brought a man named Junior Henkel in to run the Waukegan plant, is that right?

A. That's correct

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Q. Junior is a real nice guy, isn't he?

A. Yes, he is.

Q. You brought him in because of his years of experience?

A. That's correct.

Q. Now, Dennis was tereminated in April of 1983, and so you brought Junior in about, close to a year later, is that right?

The court: I'm sorry. Junior is

-- Ms. Baliunas: Junior Henkel is a

The Court: Okay.

Ms. Baliunas: It's Junior. He is a very experienced board plant superintendent. He was at one time, and then he became a board plant foreman.

BY MS. BALIUNAS:

Q. And you brought him in because of his years of eexperience, because at the Waukegan plant, it was important to make good wallboard, is that right?

A. We brought him in because of his years of experience and his strong ability for training people and to aid us in getting the plant in a better operating position.

Q. Right. Because Chris Fraley wasn't doing such a good job?

A. No. To aid us. We were upgrading our stafing in the plant, and Mr. Henkel was; one that was brought in to upgrade it. In the midst of a start-up of any plant, you start off with a lean, a type of operation--

Q. Lean and mean, right?

[194] A. Huh?

Q. Lean and mean, that's what you called it?

A. Yes, lean and mean. A lean type operation, and you progress by adding on and hiring people. I was fortunate to be able to get Mr. Henkel to come and join us.

Q. You needed him?

A. To upgrade the staffing, yes.

Q. Because you needed inexperienced supervisors?

A. I needed experienced supervisors. I needed additional supervisors. We were also hiring hourly people, too, because you have to do that also.

We had started out with a 12-hour shift, and then gone to two 12-hour shifts, and then gone to three 8-hour shifts. In order to emcompass

that, you have hire hourly people, operators, and also fill out staffing of supervisors, the quality department, the maintenance department, the warehouse department. It encompasses bringing on more people into the operation. Junior was part of that, part of that operation.

Q. Right.

A. Upgrading.

Q. Right. You needed his experience, you needed his years of experience.

A. Yes. I was fortunate to get him.

Q. Right.

Q. Any discussion about Waukegan with him?

A. Except -- well, yes, there was, naturally, disscusions of Waukegan. It was in regards to the challenging job that was coming up., It was going to be a very lean type of approach.. It was going to be a 90-day job to try and get the plant back in working order. It had been laid up for approximately about 18 months. I was to go in there, go through a screening process of hiring people. He cautioned me about the old type of people that had been in the plant. He gave me -- twice he gave me a breakdown; he gave me a breakdown of the supervisors in the plant at that time and then, again, when I arrived at Waukegan.

Q. In terms of this 90-day period, what if anything did he say about what that meant?

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A. He told me it was a very critical period; that 90 days, if the team of people that came in to operate the plant, that if they didn't get it, the plant would be shut back down again, they would either sell it or relocate it to another state. He told me it was very critical.

He also indicated that with the same scope of bringing the plant back into operation that there was going to be a strong effort to try to decertify the plant to try and get a different atmosphere at the plant than what was there before.

Q. What if anything did he tell you about the atmosphere that had been

there before?

A. He told me that there was sabotage in the plant. He told me attendance problems. He told me about a great deal of labor relation problems, a great deal of unrest. He cautioned me about Dennis Grohs, a supervisor in the plant. He done that twice that date and, again, when I arrived at Waukegan.

At the moment, I think, you know, that kind of encompasses some of our conversation.

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One of them was an accusation that was made to him, and he challenged it, about Dennis Grohs and a maintenance supervisor, Cudworth or Cudwell. I think it was Cudworth. Mr. Brooks challenged Dennis about it. He denied it. He couldn't prove it.

He challenged Dennis about an accusation that he had made, an alleged incident the night before or one evening that they had been out on a social event, that Dennis Grohs had grabbed the personnel and safety supervisor, a female employee, onto his lap and grabbed her by the crotch.

Q. Did he tell you what her name

was?

A. Becky Parkman.

We were talking back and forth, you know, as he was thumbing through his logbook. He told me about an accusation and showed me in the logbook where Dennis had made an accusation that him and Becky Parkman were having an affair. Donna Bittner and Becky Parkman were having an affair, indicating they were lesbians or dykes.

At the moment, I'm almost sure there was one or two more statements. I can't focus on the language or the wording for it right now.

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I asked him if some of it was in a ready-to-run condition. He said it was. I specifically asked him was the board plant silos, stucco silos in a ready-to-run condition. He said that they were.

I asked him if the pin mixer was in a ready-to-run condition. He said they were.

Upon my investigation in the plant on most of the equipment, I came to find out that the board plant silos were not in a ready-to-run condition, that they were laden with contaminated old stucco that would have drastically hurt us in our operation. The drag chains had been severely rusted where they weren't maintained and kept up.

The pin mixer, I had the lids removed and partially taken apart. It displayed to me that that was not in ready-to-run condition. The plant had, obviously, just shut down, and they left it just like that. We started to dismantle the pin mixer. Mr. Grohs had been passing at the time. I asked him if this was an example of ready-to-run equipment. He didn't even bother to give me an answer on it, and I can understand that. I made the statement to him at that time if this is an example of ready-to-run equipment in his judgment, I guess I was in for quite of a bit of a problem in the plant all over the place.

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felt compelled to ask her so I wouldn't have any doubt in my mind.

Q. What if anything else did she tell you about Dennis Grohs?

A. She told me that Dennis Grohs had a great deal of problems with the employees in the plant; that there was a constant, I guess, complaining and grieving about Dennis and his attitude in the plant. His peers were intimidated by him.

Q. Anything else? Did she tell you anything else about him or incidents, prior incidents regarding him?

A. Well, during that same conversation, I guess I'm giving you the worst of it, but the same conversation was, "Is it true that accusations were made against you and Donna?"

Again, I was very embarrassed to ask her, you know: Were you accused by Dennis of being a lesbian or a dyke. She in her own words told me, yes, that he had made those accusations and spread rumors about her, and also about Tom Brooks and her. It kind of, basically, bore out what Tom told me in the logbook.

Q. Did she say anything else?

A. Talked about Murray Qualls, Murray Qualls being a good supervisor. She talked about Jerry being a good supervisor, Dave Burks being a good supervisor. She was complimentary about the other supervisors.

Q. What if anything did she say about about Darlene Ramig and Grohs?

A. She mentioned that Darlene Ramig had come to her with a

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side, as to what went on in the plant before the shutdown, because I had heard some horrible, gruesome stories about what went on in the plant.

He was most obliging. He told me about the sabotage that went on in the plant. He told me there were employees that, knowingly, when a piece of equipment was going to break down, turned their back and let it break down. I asked him why. He said that was their way of getting even with Dennis Grohs. I asked him again, "Are you sure?"

He said, "Yes; that was their way of getting even with Dennis Grohs."

I asked him , "I hear about narcotics."

He said, "There was narcotics in the plant," he says, "that used to be in the locker room being divided."

He talked about it going through the lab at night, being kind of an open type of situation. I asked him what he had done about that if anything. He says he had reported it. I said "Who did you report it to?"

He said, "Management."

I said, "Who?"

He said, "Dennis Grohs."

I said, "What happened? What was done about those things?"

He said, "Nothing."

I said, "I find that hard to believe, nothing was done."

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He said, "Nothing was done." He says, "You wouldn't believe what was going on in here. Nothing was done."

I asked hem about Dennis. I said, "What kind of supervisor was Dennis out there? You are indicating to me that there might be a problem there."He said, "He was the type of guy that would sit there at his desk and just look out the window in an intimidating fashion, a higher-than thou attitude, just staring at people. He displayed an uncaring attitude about people."

I asked him, can you give me some specifics so I can best understand what you are talking about in this area?"

He says, well, he says I had an employee come to me complaining one

day that Dennis was making some bigatory-type remark to him.

I think Jon did tell me -- you have to forgive me, I have already said a few nasty things here today, but Dennis called the person a nigger and, on another occasion, a boy after several times being asked, "Don't call a black man boy, " ignoring that.

He mentioned -- I'm thinking. I'm trying to recall. There is, still again, something in my mind that I can't focus on right at the moment.

He spoke to me about another employee that came to him. He was very disappointed and upset. An employee had gone to Dennis and told him that he had some medical problems with one of Waukegan operations.

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Q. What were the reasons for the decision?

A. I only 1 had 90 days to get that place up. Ninety days in that type of an operation, it's a heavy industrial operation, in 90 days with the smallest crew that I have ever known to start a plant up with the least amount of supervisors I have known to start a plant up, I didn't have that luxury to take any calculated risk in having somebody out there that would undermine my efforts and the efforts of other people.

Q. Did you discuss your conclusions with anybody else?

A. I reported my decision to Mr. Sarvis.

Q. Did you report directly to Sarvis?

A. Yes. He was a managing director, I think was his title. That is who I reported to. I called Mr. Sarvis up, told him of my decision.

Q. Approximately when did you call him, Mr. Ward?

A. I want to say a few days before the actual act of discharge. I called him up, and I gave him my reasonings of why I felt that Dennis Grohs had to be discharged. He questioned me on my decision.

Upon the completion of our converstation, he agreed with my decision wholeheartedly. He said check through human resources, get a hold of the company attorney. He mentioned Tom Lynch's name, because to him was negotiating with the plant all the time, to get with Tom Lynch and run it by him to see if there

Coventry - direct

Q. So you were in charge of Dennis Grohs then, is that right?

A. I was.

Q. And Murray Qualls?

A. No. Murray Qualls was a quality supervisor. At the time he ran the mill, I had a side -- I, too, was-- when we had the layoff, we all took on different responsibilities. Although Murray was running the mill, there wasn't that much opportunity for me to supervise him.

Q. But before the layoff, you supervised the mill superintendent, the board plant superintendent, quality control, and maintenance, is that correct?

A. Quality control was not a direct responsibility of mine, no.

Q. But you did supervise Jerry Orrick then?

A. Yes.

Q. During the time that you were there, could you describe the hourly labor force.

A. Hourly labor force was made up of perhaps three groups. There were a few people who had been there almost since the inception of the plant who I felt knew their work and went about their work nicely.

There was a group of people that ran in an area of eight to ten years. They were not as good as the older group, but they had developed skills.

There was a new group, many, many new hires over the recent years, average age of 22, I think, of those hires. There

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were drug problems evident. The people, the newer people did not seem to have much concern for their jobs, and they were not skilled.

Q. Where were these unskilled people located, do you remember?

A. Primarily in the board plant. The other departments had the more established people.

Q. Now, you mentioned that drugs were a problem. Did Dennis Grohs attempt to stop the drug problem?

A. All of the supervision of the plant tried to do something about the drug problem, unfortunately without much success.

Q. To your knowledge, did Dennis Grohs in any way cause the durg problem?

A. Not at all. That was from the area.

Q. Was there any sabotage at the plant during the time you were there, sabotage?

A. Yes. In one case, there was a shift, the final shift of the week just before shutdown for the weekend decided it would be nice to go home early, kind of like a bunch of school kids wanting to go home at recess. They decided a good way to do it would be to break the plant down. One of them took a heavy steel bar, say, three-quarters inch, stuck it through a drive chain in the kiln. When that hit the obstruction, it broke the chain and shut the plant down. They knew that with the heat -- this is dry-running at 400 to 500 degrees -- that it wouldn't cool off rapidly enough for the maintenance people to repair it, and we

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with their work?

A. He certainly did. He, of course, had years of experience in the mill. When Orrick was working over there and needed assistance, Dennis was always ready to help him. Dennis knew the maintenance problems of his department and was able to help the maintenance department.

Q. Now, you worked as a supervisor. Did Dennis cooperate with you?

A. Pardon?

Q. Did Dennis cooperate with you?

A. 100 percent as far as I am concerned.

Q. Would you consider him to be a team member?

A. Yes. He worked closely where we worked in production. He had to. He had to work with the warehouse

superintendent, he had to work with the maintenance superintendent, and he needed to keep contact with the mill and worked with the mill because of Jerry's need.

Q. Would you describe him as a company man? Was he loyal?

A. Extremely.

leading the witness.

A. He was a good company man.

Q. Could you please describe Dennis's job performaance while he

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worked under you, his strengths and his weaknesses.

A. Dennis was very strong on quality and worked hard to give the market what they needed. He would go down to safety. He knew how to make board, both in the physical formation and good in the additives side. He knew his equipment and had good judgment as to what he needed to do to keep his equipment running; a strong superwisor, good leadership.

His weaknesses lay more in the areas of paperwork, reporting. Inventory was a major item, and he didn't have a background and had to develop understanding how to report and control that. He was a little rough at people. He had short shrift

for a man he felt was not doing his job, not interested in his jobs. He would speak brusquely, give them little attention. But a man who needed help and was a good employee, I felt he was almost paternalistic.

These things, of course, equal treatment of people across the board and letting people have their side of the story, of treating the discipline in the same manner every time, equally and fairly, were areas where I had asked him to work towards improvement.

Q. Was that because in the collective bargaining agreement, they didn't provide for steps of discipline?

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A. There was no provision.

There were some side agreements at various times, but the majority of the time that I was at the plant, we had nothing to guide us. We had to develop our own system which would stand scrutiny in cases of arbitration or where our thinking on the matter might be questioned.

BY MS. BALIUNAS:

Q. Is that what you were doing then with Dennis, developing this disciplinary system?

Q. Did Dennis have people problems?

A. I don't think so. Problem people

Q. You mean the people who worked under him?

A. The people that worked under him, he had some problem people.

Q. Now, you said that you were working with him on this system of discipline. How was he doing?

A. He was trying to do a good job. He had three foremen, and

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he, in turn, had to pass this onto them as well as curing a few of his own inclinations or experiences in a natural way of performing. He was making progress, doing fine. I was satisfied with what he was doing.

Q. How did Dennis do with respect to labor relations when he was the mill superintendent?

A. His relations there were excellent. It's a small department, I believe 10 men, a slow-moving department where there was time for him to get around and talk to his men. He knew them all and had lots of opportunity to guide them and train. I think he did an excellent job.

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Q. What is the difference between mill and board plant then?

A. Board plant is 39 or 40 people with three foremen, a high-speed operation with instant variations requiring good reaction.

Q. Mr. Coventry, could you tell me, when Dennis worked under you, where did labor relations fall in his list of priorities?

Q. Was it a priority that you had given him to do?

A. As far as management by objectives, the objective sheet that we prepared, it was not in the leading areas of responsibility. It was an area of responsibility, but it took back seat to the management objectives which we listed each year.

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Q. How did Dennis get along with the other supervisors from what you observed?

First of all, how do supervisors in a plant like that get along?

A. Sometimes there is a lot of fights. The board plant superintendent is the core of the plant; he's the hub. The mill feeds to him, the warehouse depends on him. He feeds them, but they depend on him, bring him their requests. Maintenance has to center around the board plant, because it is the major area of time, maintenance, not always the greatest cost but time, manpower.

It's a department which operates

sometimes seven days a week and is always -- it's the major profit center in the plant, the largest budget and largest opportunity to make a profit for the plant. Board plant superintendent has a lot of pressures, and he has to sometimes fight for what he needs. That is not always gentle. Sometimes they get a little rough with each other. Dennis spoke very directly, and sometimes this hurt a feeling or two.

But all in all, in this plant, I don't feel that anything Dennis did or said caused any interruption, any problem in production. We would have a day of hurt feelings or so and go back to work.

Q. Did other supervisors have friction between themselves?

A. Yes. He would have it between the mill and the warehouse

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up. He thought that she was capable of advancing as near as I can remember.

BY MS. BALIUNAS:

Q. Did Mr. Brooks come to you and say anything about Dennis's grabbing Becky Parkman by the crotch, Mr. Coventry?

A. No. I was very close to Becky. I believe I worked closely with her. I believe if Dennis had grabbed her by --

Q. Let me just ask you this. Did anyone ever mention anything about Dennis's grabbing Becky Parkman by the crotch to you at all

A. No.

Q. -- during that time?

A. No.

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Q. Or sitting her down on his lap?

A. No.

Q. Now, you had mentioned that you were close with Becky.

A. Yes.

Q. Why do you say that you were close with Becky?

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Q. I believe you testified a few moments ago that Mr. Brooks, to your knowledge, did not feel that Mr. Grohs had problems in labor relations, is that correct?

A. Corrrect.

Q. Mr. Bowers, did he feel that Mr. Grohs had problems in labor relations?.

A. Not to my knowledge.

Q. I am showing you what have been marked as Defendant's Exhibits 1 and

Q. I ask you to look at those and tell me if you recognize them.

A. Yes.

Q. Are those appraisals you filled out on Dennis Grohs?

A. Yes.

Q. When you would fill out those appraisals, would you give them to your boss?

A. Yes.

Q. And then discuss them with the employee, correct?

A. Yes.

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quality.

Now, I was not there, but as I heard it back, job performance, people who didn't care about their jobs. Yes, Mr. Grohs was reported to have said: Some of you people won't be here, or we don't want some of you people here -- some such thing, which is part of the finesse.

Q. And that speech caused quite a ruckus?

A. All kinds of loud noise, yes.

Q. Mr. Coventry, did Dennis ever do anything to improve the morale of the employees in the board plant?

A. Yes, many, many little things which I can't remember. But one of the major ones that made a tremendous

difference in working conditions, when I got to the plant and when Dennis went in red rain from the ceiling, condensation. Down at the wet transfer knife area, sometimes the whole floor would be covered with water inches deep. Along the kiln, the operators had to open doors to let cold air in to get the kiln cool enough at times when they needed to reduce temperature. They didn't have enough control on the burners.

(265) Dennis in, I don't know how long, but started to recognize where that problem was. We had a vice-president, Robert Beck, come through the plant and talk to Dennis. Dennis did a job of selling Mr. Beck on the need to change the burners that were there.

To digress a little, previously in the plant, perhaps '77, '76, they had had trouble with getting the production they wanted, and they thought that the originally installed-burners on the kiln drier -- these are big gas burners -- were inadequate. So they had someone come in and give them an offer on a larger burner. Then they had installed those. As he looked into it, we

found out these burners were as much as three times too large for the kiln.

But, anyway, Dennis had gotten Mr. Beck's interest. Mr. Beck went to work and eventually just ordered us to shut the plant down and fix, put back the old burners. We did, and it made a vast improvement, cleared up a majority of the water problem that was so evident that reduced the need of operators to open and close doors. It took the heat off the wiring, which was along the ceiling line, by those open doors. Sometimes it resulted in overheated the wires and causing shorts. It was a definite improvement, and morale went up with that improvement.

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Q. Just one question, quickly. As of 1981, you felt, did you not, that Dennis Grohs was inconsistent in his labor relations approaches?

A. And everybody in the plant, every supervisor in the plant.

Q. Calling your attention again to the second page of Defendant's Exhibit 2, the concluding remarks, is that your writing under there (indicating)?

A. Absolutely.

Q. And you said there:

"Needs to establish uniform departmental procedures and labor relations."

A. That's corrrect, in regards to discipline, because we had no written law to follow. We were left

to develop our procedures, and we needed to be uniform throughout the plant. Dennis with three formen under him had a special problem of being uniform across three shifts with three different foreman.

Transcripts of Proceedings Feb. 18, 1987

Qualls - direct

Q. Did Dennis remain at the Waukegan plant during the shutdown?

A. For the most part. He traveled out to the Medicine Lodge plant to help with that plant start-up and some training of people out there as well as I did. I traveled, and Dave Burks went out.

Q. Who sent him to Medicine Lodge, Kansas?

A. At that time it would be Clay Gray, who was the supervisor that I reported to.

Q. Who was the plant manager?

A. The plant manager of Medicine Lodge?

A. Yes.

A. Jack Dooley.

Q. Who was the second, the production superintendent?

A. Ford Clemmens.

Q. Did you have a discussion with either of them about Dennis's job performance?

A. I know they were pleased with Dennis. I don't know that I ever specifically talked with Jack Dooley but Ford Clemmens was a very good friend of mine. Ford always was very complimentary of all of us that were there, very much so.

Q. How was it that Dennis went back several times?

A. At the Medicine Lodge request and Clay Gray's he was asked to be sent back for continued help at Medicine Lodge.

for different situations. We make-- we had 12 different types at that time. We made wallboard that would go for bathrooms. It was a moisture-ressistant board. We made shaft liner which was an inch thick and was for elevators and odd buildings. We made fireproof board for office buildings or houseing, and several different types, shapes, and forms.

Q. How many different product lines did you have when you were the board plant superintendent?

A. We had 12 at that time.

Q. Now, you mentioned that you had to make the wallboard as efficiently as possible. What did you mean by that?

A. Well, that was to make it as, I guess, as fast as I could and a quality product.

Q. What did you do to make sure that you were making the wallboard as fast as you could?

A. Well, I was responsible for raw materials. I was responsible for seeing that people manned the shifts, people were doing their jobs safely on the job. It's all part of it.

Q. Was it important for people to be on the job, Dennis?

A. Oh, golly, yes. It was a continuous operation. One man could hurt you very badly at times.

Q. Was it important for them to do their jobs safely?

A. Absolutely. Safety was the number one priority most of the time. I should say all the time. It was the number one priority with the company and plant.

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Q. Now, you said that it was important to have people on the job. Did the company have an attendance policy?

A. We did. We had a very strict policy, yes. It allowed people time off to a degree, but it also, which there was no -- how do I want to say in English -- the union had no right to file any grievance on it. It would gradually get too a discharge position where a person could be discharged. And there was no recourse for the union to take because it was nonnegotiable. I think that's what I want to say.

Q. Did you follow this attendance policy, Dennis?

A. Yes, I did, to the letter.

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Q. You also mentioned safety. Was there a safety policy at the company, also?

A. Yes. We always had an on going safety program. We had a JSA program going, job safety analysis, where the foremen work right with each person on the job instructing the correct way to doing the job, and also to have this all typed up. It was typed up and put in a notebook that anybody could read that did the job and would be able to do it right.

Q. Was that done by the company or by you, that particular thing?

A. It was done plant-wide, supposedly.

Q. Did you do something yourself in the mill department with respect to safety?

A. Yes. I had started that several years --

Q. That's right, in the mill and the board plant?

A. Yes, I had started in the mill several years before?

Q. What did you do?

A. With the mill? I don't understand.

Q. Well, with the mill and the board plant.

A. Yes. We didn't have any accidents in the mill. One that I recall, but that was lost time.

Q. Tell the court what you did to make the board plant a more safe place when you took over.

A. Well, we continued with this program. Well, I just insisted that this program be followed, this training of the people on the job.

Q. Did you set up some job descriptions?

A. Oh, yes, yes, by all means. That's what I just said. We typed them all up. I had the foreman work with each person on his crew and going over his job with him, and you know, both putting, have an input into it, the employees, too, you know, along with the supervisor. And when they agreed to a safe way of doing it, it was typed up that way for everybody to see.

Q. Did you follow the safety policy of the company then?

A. Absolutely.

Q. Now, there was a collective bnargaining agreement also, is that true?

A. Yes, there was.

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Q. As superintendent of the board plant, did you follow the terms of the collective argaining agreement?

A. I certainly did, to the letter.

Q. Did the collective bargaining agreement provide for a system of discipline of the employee at the time?

A. No. They had their own procedure but no system of discipline.

Q. From 1972 until the end of 1981, were you a superintendent at the plant?

A. Yes, I was.

Q. How many grievances did you have filed against your departments during that period of time?

A. About one a year.

Q. Who appointed you to the position of board plant superintendent?

A. Byron Bowers.

Q. When were you appointed to that job?

A. In November of '79.

Q. At the time that Bowers appointed you to the job, did you have a conversation with him?

A. Yes, I did.

Q. Where did it take place?

A. In his office.

Q. What did he say?

A. He said that we needed to get a little discipline in the

board plant. He said we needed to start knocking some heads together is what he said.

Q. When you first became board plant superintendent, describe the conduct of the employees in the board plant.

A. Well, it was very -- the morale was loose. The attendance was terrible. Safety records were terrible. The morale was just generaly bad.

Q. What about the condition of the plant, the board plant itself?

A. Yes, the board plant itself when I went down there, I was under the impression that it was going to be a people problem. That's what I thought I had. But when I got down

there, and it didn't take too long to discover that I had a lot of mechanical problems, also.

Somewhere -- down at the wet-end transfer, the place looked like it didn't have a roof on it. It just rained all the time in there, condensation, electrical problems, wires shorting out, fuses blowing. The kiln had hardly any safeties that worked in it. The guy had to stand and water to jump out a relay to light the burner on the thing. That's how bad it was.

Q. Did you do anything about it, Dennis?

A. Yes, I did. We had a vice-president, Mr. Beck, come into the plant, shortly after I board plant superintendent, as a matter of fact, and he wanted to tour the board plant, and he did that without me. I'm sure he wanted to talk to the

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their importance, and this is what I was rated on.

Q. Now, you received a competent rating in October of 1980. Under comments of present superior, on page 2, it says that: "Dennis has worked very hard to improve board plant performance. He is weak in labor relations but is working to improve in this area. Dennis' rating is competent but is very close to outstanding."

First of all, was labor relations one of your accountabilities?

A. It was not an accountability; it was a responsibility, yes.

Q. But it was not something that was discussed with you by Mr. Coventry at the beginnning of the year?

A. No. No, it was just -- this was at the time of my evaluation here.

Q. Please, to the best of your recollection, did you have a conversation with Mr. Bowers with regard to this performance appraisal?

A. Yes, I did. He was very pleased with my efforts in the board plant, and as he says, he wanted to give me an outstanding, but there were reasons he couldn't One, basically, he had it documented in writing as it says right here on this thing. He gave me a good raise.

Q. Did he tell you why he had put down, "He is weak in labor relations?"

A. Well, when you have a competent rating, they always put down

a weakness. They have to have a weakness on it. Otherwise, I guess you'd be perfect if you didn't have something wrong with you.

Q. Now turning to -- well, I want to ask you a few questions before we get to No. 12.

Dennis, did you attend a supervisors' dinner in June of 1981?

A. Yes, I did.

Q. Where was the dinner held?

A. At the Pepper Club in Waukegan.

Q. Approximately how many persons attended the dinner?

A. Approximately 25.

Q. What time did the dinner start?

A. It started at 6:30, and I got there at 7:30.

Q. When did you leave?

A. Approximately 9:30, 10:00.

Q. At that dinner, did you have a conversation with Darlene Ramig?

A. I did.

Q. Did she approach you, or did you approach her?

A. I approached her.

Q. Why did you approach her?

A. Well, I was sitting next to Charlene Koschalk at the dinner. I was the last one to come to dinner.

Q. Who is Charlene Koschalk?

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June of 1981?

A. Yes, I did, in October

Q. In October.

A. Yes.

Q. Now, take a look at the performance appraisal. You were rated competent.

A. Yes.

Q. Was labor relations one of your accountabilities at that time?

A. No, labor relations was not one of my accountabilities.

Q. Now, Mr. Brooks indicates under comments of appraiser superior:

"Overall rating is a strong competent. He has done a very good job manufacturing a quality product. Sales districts are very pleased with the quality. Needs to improve

on maintaining a consistent housekeeping program. Objective is 90 or better. Has improved in labor relations but still needs to work on developing a little bit more finesse."

Now, did you have a conversation with Mr. Brooks about your job performance, about this appraisal.?

A. Yes, I did.

Q. What do you recall him telling you?

A. Well, again, he was very happy with the job that I had done in the board plant. He gave me a good raise, I think $155. if I recall right.

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that we were supposed to run, and I went to Medicine Lodge to train people, to start up a plant several times.

Q. Approximatly how long altogether did you spend in Medicine Lodge training people?

A. Approximately three months, off and on.

Q. Other than training people at Medicine Lodge, did you do anything else?

A. Yes. I relieved the board plant foreman there who went on vacation at one time for a week. I relieved the board plant superintendent for a week in the old plant while he went on vacation.

Q. So you were supervising the employees when you --

A. Yes, absolutely.

Q. You were also working side by side with employees?

A. Yes. On the new line when we were starting it up, I was training people.

Q. Who was in charge of the plant at that time? Who was the plant manager?

A. Jack Dooley was -- of the Medicine Lodge plant.

Q. Yes.

A. Or outs?

Q. No; Medicine Lodge.

A. Jack Dooley.

Q. Who was the production superintendent?

A. Ford Clemmens.

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Q. Did they say anything to you about your job performance at Medicine Lodge?

A. I don't recall them saying anything unusual, you know. They keep inviting me back to help them some more.

Q. Did they criticize you in any way?

A. No. They never criticized what I did.

Q. Now, who was your supervisor the time that you were -- during the shutdown, Who was your supervisor?

A. Murray Qualls.

Q. Did Murray ever indicate that he was displeased with you in any way?

A. Displeased?

A. Displeased.

A. No. No, never.

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Q. Were you still considered to be entitled the board plant superintendent, though?

A. I had the title of board plant superintendent, yes.

Q. Could you please tell the Court what happened on the day of your discharge.

A. Well, there ain't much to tell.

Q. On the day of your discharge, could you please describe to the Judge what happened.

A. Yes. I was over in the warehouse, and he sent Dave Burks over to get me. Burks told me that the boss wanted to see me. So I went over there. And I went in, and he said close the door, you know. He said,

"I'm going to terminate you" And then Tom -- Tom was in there at the same time, Tom Lynch, and he --

Q. You have to speak up a little bit, Dennis.

A. Oh, I'm sorry. Tom Lynch was in there, also. And at that time Tom

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indicated that if I would resign, he would type up my resumes for me and keep my insurance intact and my retirement benefits intact, and find me another job. And I asked him, "If you are going to do all this, Tom, what in the devil are you firing me for?"

And then I turned to Ward, and I said. "Why are you firing me?"

And he says, "You got trouble with your peers, can't get along with your peers."

And very little said after that. There was no point in me hanging around, I guess. I did say, too, I says, "Who in the hell is there to get along with? There is just Murray and Dave and Orrick here, just the four of us." I said, "There is only the four of us here. Who's here to get along with?"

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(378) Spitz - direct

Q. Do you know a man named Robert Sarvis?

A. Yes, sir.

Q. How do you know him?

A. He was director of manufacturing reporting to me.

Q. How long was he in the position of director of manufacturing

reporting to you?

A. He became director of manufacturing on March 28, 1982. Before that, he was managing director of the Manchester, New Hampshire plant and the Mobile, Alabama plant.

Q. You said 1982. Is that correct, 1982?

A. 1983. I'm sorry, sir.

Q. He was in that position until when?

A. Until the fall of '83.

Q. Did his duties in that job have anything to do with the Waukegan plant?

A. Yes. He was director for the Waukegan plant.

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Q. When was he given responsibility for the Waukegan plant?

A. March 28, 1983.

Q. I have handed you what has been marked as Defendant's Exhibit 17.

Do you recognize that?

A. Yes, sir.

Q. What is it?

A. First off, it's an announcement announcing Bob Sarvis changing his responsibility from managing director to director of manufacturing and adding the Waukegan plant to his list of responsibilities.

Q. Is that your signature at the bottom of the exhibit?

A. Yes, sir.

Q. I'm sorry; I didn't hear you..

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A. Yes, sir.

Q. What is it?

A. It's the termination notice that I handed to Mr. Sarvis.

Q. Is that your signature on the notice?

A. Yes, sir.

Q. Did you give this to Mr. Sarvis on or about November 4, 1983?

A. Yes, sir.

Q. Calling your attention to March 28, 19893, where were you that day?

A. At the Waukegan plant.

Q. Why were you at the Waukegan plant that day?

A. We had discussions about starting the plant up, and I wanted to see the physical condition of the plant.

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Q. Who if anyone with the company did you meet with at the plant that day?

A. Murray Qualls.

Q. Was Mr. Sarvis at the plant that day?

A. No sir.

Q. Was Mr. Ward at the plant that day?

A. No, sir.

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Q. Other than that trip on March 28, were you ever at the Waukegan plant during March or April?

A. No, sir.

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[407] Roth - direct

A. Yes, I did.

Q. When did that take place?

A. The exact date, I don't remember.

Q. Where did the conversation occur?

A. In the board plant.

Q. Besides Mr. Michalowski and yourself, was anyone else present?

A. No.

Q. What did he say and what did you say during that conversation?

A. He came up to me one day before the start of the shift and told me that his wife had been in an accident the previous day at home, and that a call had come into the plant for Rick to get ahold of his wife immediately; and that of message had been delivered to Dennis Grohs, and Dennis never relayed the message to Rick.

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Q. What did you do after Rick told you that?

A. I went into Dennis's office and asked him about it.

Q. Was anyone else in the office at the time?

A. No.

Q. What did you say to Dennis, what is did he say to you?

A. I asked him if he had received a message for Rick Michalowski to call home. He said yes, he did, but he didn't think at that time it was that important.

Q. Did he apologize for not passing on the message?

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A. No.

Q. What did you do after talking with Dennis?

A. I went and talked to Rick, told him Dennis's answer. I think it was one day later, Rick went into the office and asked him about it.

Q. Do you know a man nanmed Arnie Campbell?

A. Yes, I do.

Q. Who is Arnie Campbell?

A. He was an edge person?

A. An employee that forms the edges of the dry wall before it hardens.

Q. Did he hold this job before the plant shutdown?

A. Yes, he did.

Q. Calling your atttention to 1979, did you have a conversation with Mr. Campbell about Dennis Grohs?

A. Yes.

Q. When was that conversation?

A. On that exact date, I don't remember either.

Q. Where did you have the conversation?

A. That was in the board plant department before the start of the shift.

Q. Was anyone else present besides Mr. Campbell and yourself?

A. No.

Q. What did Mr. Campbell say to you and what did you say to him?

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A. That's what I just said. He wanted to go home early.

Q. He just wanted to go home early.

A. Yes.

Q. What shift was that on?

A. The second shift, I believe.

Q. And there was an investigation.

A. Yes.

Q. And people took lie detector tests or something like that?

A. Yes.

Q. And the person was found who did it and discharged.

A. An voluntarily came in, and the company gave him the option to resign, or they would pursue it and prosecute. So he resigned.

Q. Other than that instance and the fire in the lunchroom then, can you

recall any other instances of sabotage?

A. No.

Q. Do you recall during your deposition, you could only recall the fire in the lunchroom?

A. That's all I was asked about.

Q. I think I asked you more than that.

A. That's one thing you brought up specifically. So that's what is I commented on.

Q. With respect to those 1981 union negotiations, the collective bargaining committee met with certain people from the company. Both Tom Brooks and Tom Lynch were present. They were two of the

people that you were meeting with, is that right?

A. Yes.

Q. During those negotiations, you did not mention Dennis Grohs's name, did you?

A. No.

Q. Your disagreement with the company was that Dennis was following plant or corporated policy, and you with complaining about the policy.

A. He was going overboard on corporate policy.and you were complaining about the policy.

A. He was going overboard on corporate policy.

Q. Well, he was following the policy, isn't that right?

A. He was following Dennis's policy, which extended from corporate policy.

Q. Turning your attention to your deposition, page 36, line 23:

"Question: In other words, what you are saying getting him out was not part of your negotiations, is that what you are saying? Am I hearing that right?

"THE WITNESS: It would be things that Dennis would be doing that we have disagreements with him on, but he would be following plant or corporate policy when he is doing them. So it's not aimed at a particular individual; it's aimed at a policy."

Do you remember saying that?

A. Not word for word, but I remember saying it, yes.

Q. As a matter of fact, if you didn't like what Dennis was

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doing, you could always file a grievance.

A. Right.

Q. Your general feeling about Dennis was that he was too strict, is that correct?

A. Yes.

Q. Isn't it true that the problems, you brought the problems in Dennis's area more than any other areas because that was where the consentration of the people were, and you had three shifts versus one shift?

A. That's true.

Q. At that same time, didn't you also feel that some of the supervisors were too lenient?

A. Not really lenient. They were all going in their own directions.

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Q. My question on page 43, line 6, was:

"Did you feel that any of the supervisors were lenient because they just didn't care what the employee did?

"Answer: A lot of them were. Some of them were afraid of the employees."

A. True.

Q. Do you recall that answer?

During these negotiations when you mentioned these problems stemming from Dennis Grohs following company policy too strictly, Tom Lynch and Tom Brooks were firm in their response that it would stay like it is, weren't they?

Transcript of Proceedings 2/19/87

A. Pretty much so, gentlemen.

Q. As of the date that I took your deposition, which was the 28th of January 1985, isn't it true that the company still had the same strict policies as before?

A. The same policies.

Q. The same strict policies.

A. It depends on how you look at them.

Q. Turning your attention to your deposition, page 61, line 12; employees now than they were before when Mike Ward was there? Was management more lenient with the employees?

"Answer: No.

"Than before?

"Answer: No. We still have the same policies.

Transcript of Proceedings 2/19/87

"Question: When I Mike Ward was there?

"Answer: Yes.

"Than before?

"Answer: They may be explained a little better to the employees than it was when he was here.

"But still the --

"Answer: Same policies, yes.

"Question: The strict policies?

"Answer: Yes."

Do you remember?

A. At that time, yes.

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Q. Isn't it true that the problem was that nobody would talk to Mike?

A. Yes.

Q. Isn't it true that that was because everytime you said something to him, he would find some fault with what you said?

A. Yes.

Q. So nobody said anything to him.

A. Corrrect.

Q. After Michael gave you this memo, did you start talkijng to him?

A. A little bit.

Q. Not too much?

A. Well, sure. I was putting in 17, 18 hours a day. I didn't feel like talking to anybody anyway.

Q. Is it true that Mike Ward was grooming Dave Burks for the board plant superintendent's job?

A. I believe he was, yes.

Q. Isn't it true that Dennis Grohs' expertise and experience would have been very helpful in getting the plant started up again?

A. No.

Q. Okay. I would like to draw your attention to page 54 of your deposition, page 55, line 8:

"Question: So do you think that Dennis's expertise, his experience would have been helpful in getting the plant started

of your deposition, line 22:

"Question: Everybody was at a round tale, and Dennis looked at them and said it?

"Answer: He didn't look at them. I am pretty sure he was talking to Mary Ann Siegal when he said, quote, I think they are lesbians or, quote, them two lesbians.

"Question: Are you sure that he didn't say something like: If I didn't know any better, I'd think those two are in love? Could it be that that he said?

"Answer: It could have been."

Transcript of Proceedings 2/20/87

O'Dea - direct

Q. State your name for the record, please.

BY THE WITNESS:

A. Helen O'Dea.

Q. Where do you live, Ms. O'Dea?

A. I live in Charlotte, North Carolina.

Q. By whom are you employed?

A. Gold Bond Building Products, Division of National Gypsum Company.

Q. How long have you worked with them?

A. It will be 41 years in May.

Q. What is your current job with that company?

A. I am supervisor of accounts payable.

A. Yeah, because this was his last day there, and he indicated that he would like me to take a human relations course. I said, "Sure, definitely. This is the most opportune time to do it while the plant is down and we've got plenty of time, you know."

He says, "Good. I'll arrange it."

He gave me a good raise on this one, too.

Q. Now, Dennis, had Mr. Brooks ever asked you to take any kind of courses in the past?

A. Yes, he had. I had taken -- I went to a seminar with Jerry Orrick and Becky Parkman sometime during the summer or late fall.

Q. Of what year?

A. '81.

Q. What kind of a course was it?

A. It was a course up in Madison, Wisconsin. It was called Techniques of Hiring, I believe was the name of the course, Techniques for Hiring.

Lynch - direct

Q. You are familiar with the laws under discrimination?

A. Yes.

Q. Including age discrimination?

A. Yes.

Q. You were familiar with the laws on age discrimination in April of 1983, also?

A. Yes.

Q. The termination of a long-term employee is an important matter, isn't it?

A. Yes.

should be given to offering him a supervisory position somewhere in the company prior to the start-up. I would suggest this be somewhere besides Waukegan since Roth's human relations' skills are less than polished and are inappropriate for decertification climate."

Was Mr. Roth given a position somewhere other than Waukegan to your knowledge?

A. I would have to think back. I don't recall that he was. I think he was not.

Q. So with his people problems, he was retained in Waukegan, is that right?

A. My recollection is he was retained in Waukegan, yes.

Q. Did you recommend that Dennis Grohs get transferred to another plant as was recommended for Mr. Roth?

A. Did not.

Q. You just decided to terminate him?

A. That's right.